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SENATE

REPORT
99-125

# NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES AMENDMENTS OF 1985

AUGUST 1 (legislative day, JULY 16), 1985.—Ordered to be printed

Mr. STAFFORD (for Mr. HATCH), from the Committee on Labor and Human Resources, submitted the following

## REPORT

[To accompany S. 1264]

The Committee on Labor and Human Resoruces, to which was referred the bill (S. 1264) to amend the National Foundation on the Arts and Humanities Act of 1965, to extend the authorization of appropriations for that Act, and for other purposes, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill as amended do pass.

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## I. Findings

The Committee on Labor and Human Resources is reporting S. 1264, a bill to reauthorize the National Foundation on the Arts and Humanities Act of 1965. This bill reauthorizes the National Endowment for the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services. The Committee finds that the combination of these three programs is important not only to our Nation's heritage and cultural development, but also to our educational health. Throughout the reauthorizing process, the Committee has found that the Endowments and the Institute have been run very effectively and efficiently and, therefore, we are reporting a very simple, straightfoward reauthorization.

At this time, as the Endowments are celebrating their 20th anniversary, the Committee has found that they are operating very much as the Congress had envisioned when the authorizing legislation was first passed. In fact, the leveraging force of Endowment grants on the improvement of cultural life in America has far exceeded original expectations.

The Committee finds that the support for the arts and humanities encouraged by the federal government through these agencies has resulted in stronger Arts and Humanities Programs. Although this role has always been that of a junior partner, it marks a reaffirmation that our federal government does indeed have an imperative role to play in the support of culture in this country.

## II. Statement of Purpose

It is the purpose of this bill to modify the existing National Foundation on the Arts and Humanities Act (NFAH) by taking into consideration the changing cultural development of the American people.

While the Committee believes that the existing programs have been very successful and have followed the intent of the enacting legislation, the hearings held by the Subcommittee on Education, Arts and Humanities in June of this year demonstrate the need for certain changes. These amendments, in the form of S. 1264, make the necessary changes in the existing NFAH Act.

## III. Legislative History

On June 7, 1985, Senator Quayle, on behalf of himself and Senators Stafford, Pell, Kennedy, Weicker, Simon, Wallop, Matsunaga and Dodd) introduced S. 1264, a bill to reauthorize the National Foundation on the Arts and Humanities Act of 1965.

On June 19th and 20th, 1985, the Subcommittee on Education, Arts and Humanities held hearings on the National Endowment for the Arts, the National Endowment for the Humanities and the Institute of Museum Services. Testimony was received from 18 witnesses representing a wide variety of perspectives: national, state, local and private viewpoints.

Following the hearing, the Subcommittee polled out the bill and thereby reported it unanimously to the full Committee on Labor and Human Resources. Senator Stafford subsequently proposed a

substitute committee amendment which responds to those concerns raised at the hearing. This amendment, in the nature of a substitute, was reported unanimously by the full Committee on July 31, 1985.

## IV. Section-by-Section

*Section 1* of the bill cites the title as the "National Foundation on the Arts and the Humanities Amendments of 1985".

*Section 2* amends Section 3(d)(2) of the Act by adding "for the purposes of section 5(1) only," after (2) thereby allowing funds to be used for construction only in the challenge program.

*Section 3* amends section 6(f) of the Act by increasing the value of grants which the Chairman can make without the prior recommendation of the National Council on the Arts from $17,500 to $30,000.

*Section 4* of the bill amends section 7(f)(2)(B)(i) of the Act by increasing the number of members on the state humanities councils that are appointed by the Governor of the state from four to six and also increases the maximum percentage of such members from 20 to 25 percent.

*Section 5* of the bill amends section 7 of the Act by providing for a new program to commemorate the Bicentennial of the Constitution of the United States and the Bill of Rights at the elementary and secondary level. Part (A) authorizes the Chairman to make grants to public and private elementary and secondary schools, organizations, individuals, state agencies, and local agencies in the United States for the development of instructional materials and programs on the Constitution of the United States and the Bill of Rights which are aimed at the elementary or secondary school-aged population. Part (B) authorizes the Chairman to implement an annual national bicentennial Constitution and Bill of Rights competition based upon the progarms developed and utilized by elementary and secondary schools.

*Section 6* of the bill amends section 8(b) of the Act by adding after the word "selected" the following: "from citizens of the United States who are recognized for their knowledge of, expertise in, or commitment to the humanities and".

*Section 7* of the bill amends the authorization levels for the four budgets within the Endowments and the overall authorization levels. For the overall and for the four individual budgets, FY 86 authorization levels were set at the same level as FY 85; for the first two out-years, the bill provides for a 4% increase and "such sums" for the remaining years. A breakdown of the four budgets is as follows:

[Done in thousands]

| | Fiscal year— | | | |
|---|---|---|---|---|
| | 1986 | 1987 | 1988 | 1989 and 1990 |
| NEA Program | $118,678 | $123,425,120 | $128,362,125 | "Such sums as may be necessary" |
| Treasury | 8,820 | 9,172 8 | 9,539,712 | Do |
| Challenge | 20,580 | 21,403.2 | 22,259,328 | Do |

| | Fiscal year— | | | |
|---|---|---|---|---|
| | 1986 | 1987 | 1988 | 1989 and 1990 |
| Admin | 15,582 | 16,205.28 | 16,853.491 | Do |
| Total | 163,660 | 170,206.400 | 177,014.656 | Do |
| NEA Program | 95,207 | 99,015.280 | 102,975.891 | Do |
| Treasury | 10,780 | 11,211.300 | 11,659.648 | Do |
| Challenge | 19,600 | 20,384 | 21,199.360 | Do |
| Admin | 13,891 | 14,446.640 | 15,024.505 | Do |
| Total | 139,478 | 145,067.120 | 150,869.405 | Do |

*Section 8* of the bill repeals 2 subsections and 1 section of the Act which authorize studies and reports which have already been completed.

*Section 9* of the bill reauthorizes the Institute of Museum Services for 5 years and authorizes $21,600,000 for FY 86; with the 4% inflationary increase in the first two out years and such sums thereafter.

*Section 10* of the bill amends the Arts and Artifacts Indemnity Act in several ways. First, it adds a restriction on the composition of the Federal Council on the Arts and the Humanities (those charged with the administration of the AAI Act) by prohibiting the Secretary of the Smithsonian Institution, the Director of the National Gallery of Art, the member designated by the Chairman of the Senate Commission of Art and Antiquities and the member designated by the Speaker of the House of Representatives from serving as members of the Council.

This section also amends section 3(b) (1) of the AAI Act by changing the phrase, "or elsewhere when part of an exchange of exhibitions, but in on case shall both parts of such an exhibition be so covered" to read, "or elsewhere, preferably when part of an exchange of exhibitions".

Furthermore, this section increases the aggregate level of insurance available for art exhibitions under this statute at any one time to $650,000,000 from the previous level of $400,000,000; and increases the value of indemnification of individual exhibitions to $75,000,000 from $50,000,00.

*Section 11* of the bill requires that the Comptroller General of the United States shall conduct a study to determine the feasibility of supplementing expenditures for the programs authorized under the National Foundation on the Arts and Humanities Act through other Federal funding mechanisms.

## V. Committee Views

### (1) FUNDING

In keeping with Congress's concern about the dramatically increasing budget deficits, the Committee is recommending authorization levels consistent with the first Budget Resolution as passed by the Senate. For all three programs authorized under the NFAH Act, a freeze at the FY 85 appropriated level is included for FY 86; a 4% increase for each of the first two out-years and "such sums" for the last two years of the five year authorization are also included.

Although the Administration proposed a cut in both Endowments and virtual elimination of the Institute of Museum Services, these authorization levels mark a reaffirmation by the Committee that the Federal Government does indeed have an important role to paly in the support of culture in this Country. This role has always been that of the junior partner in any endeavor so as to aviod a dominant government role in dictating our cultural environment. The fundamental concept of the 1965 legislation holds true today—private initiative should continue to be the principal and primary source for the support and encouragement of the arts and humanities.

Of special importance to the Committee was the reauthorization of the Institute of Museum Services. Although the Administration has repeatedly recommended phasing out the IMS, the Congress has, just as consistently, given its full support. The Institute operates a unique grant program which provides urgently needed (but hard to raise) general operating support to our Nation's museums. It is critical that those institutions which preserve our National heritage be healthy and secure, both fiscally and physically. It is for this reason that the Committee voted unanimously to reauthorize this progam for 5 more years.

(2) INTENT CLARIFIED

*(A) Construction*

The Committee, along with the Chairman of the National Endowment for the Arts, recommends that construction funding come out of the Challenge Grant program only. Although under current law, both Challenge and Program money can be used for construction, this has not been the case. This amendment will make the law conform to actual practice.

The Committee would also like to acknowledge the 1 to 4, federal to non-federal dollar match required for the construction funds. The usual challenge match is 1 to 3 and this greater matching requirement will allow the small amount of federal funds to be further disbursed.

*(B) Chairman Grants*

S. 1264 increases the value of the Chairman emergency grants from $17,500 to $30,000 at the National Endowment for the Arts. This is consistent with the National Endowment for the Humanities, which had an increase in the value of Chairman grants in 1980. The Committee asks, however, that each Endowment Chairman continue to use discretion in the use of these emergency funds. It is the intent of both the enabling legislation and this Committee that these grants be used primarily to respond to situations when the usual peer review process would take too much time.

*(C) State Humanities Councils*

The Committee wishes to acknowledge the importance of the state/federal partnership that has developed between the state humanities councils and the National Endowment for the Humanities. The Committee further recognizes the continuing need for

this ongoing, cooperative relationship—free of unnecessary procedures. State humanities councils, as responsive and responsible organzations, are well-suited to judging and meeting the unique needs of their individual states. This positive partnership is reflected on many levels, and exemplified by such activities as the annual conference of state humanities councils, organized by the councils through the National Federation of State Humanities Councils and supported by the Division of State Programs of the NEH; and *Federation Review*, the bimonthly journal of the councils, published by the Federation with contributions from the states and supported by the NEH.

Since the 1976 reauthorization of the National Endowment for the Humanities and the state humanities councils, the Committee has encouraged a strengthening of relations between the councils and the branches of state government. Major improvements have been made in this regard and the Committee urges that a continued effort be made to develop and strengthen the linkages between the councils and state governments. In this regard, the Committee has recommended that the number of gubernatorial appointees to each state humanities council be increased from 4 to 6. As most state councils have somewhere between 20 and 25 members, 6 gubernatorial appointees is a reasonable and appropriate number and should serve to enhance relations with the state even further. Should the addition of these appointees increase the administrative costs of the councils, the Committee expects the NEH to ensure that sufficient funds are made available to cover this increase. The states are also encouraged to provide funds to the Councils to cover any expenses incurred by the gubernatorial appointees.

The Committee would like to make clear once again that current law refers to a council as an organization, not to individual members, since rotation policies ensure that membership is continually changing.

The Committee wishes to reaffirm the intent of Congress that a *minimum* of twenty percent of program funds within the total annual appropriations to NEH be allocated to the state humanities councils. It is the clear intent of the Committee that the twenty percent figure represent a floor, not a ceiling, on the amount to be appropriated annually for the councils. The councils, as prime forces in carrying out NEH's mandated public outreach goals, deserve as substantial financial support as is possible to provide. Over the past years, some council program budgets have been cut as much as twenty percent; It is the Committee's hope to avoid such radical fiscal changes in the future.

The Committee wishes to underscore the critical role NEH Treasury funds play in leveraging local, private support for the humanities in general, and state humanities programs in particular.

Section 8 (a)(2)(B)(ii) of S. 1264 changes Section 11(a)(2)(B) of the National Foundation on the Arts and Humanities Act, by inserting "and subgrantees" after "grantees" throughout that clause. This change will enable subgrantees of the NEH (i.e., grantees of state humanities councils) to certify gifts made directly to humanities projects for federal matching funds. The Committee believes this represents a positive addition to, but not a substitute for, other means available to the councils to encourage local, private support

for humanities programs. The Committee encourages the NEH and the state councils to develop clear, simple procedures to accommodate this change, in order to maximize the benefits of local support both for humanities projects and the councils themselves.

*(D) Arts and Artifacts Indemnity Program*

Since its enactment in 1975, the Arts and Artifacts Indemnity program, run by the National Endowment for the Arts has indemnified some 200 exhibits. Along with assisting American Museums in bringing popular exhibitions to a wide audience, many of whom might not otherwise ever be able to see such great works, the Indemnity program has fostered international cooperation and goodwill through the sharing of cultural treasures. It is the Committee's belief that this program has indeed met the intent of the enabling legislation and therefore should continue to receive the support of the National Endowment for the Arts.

While the Committee applauds the success of this program, we do believe that a few changes are in order to encourage the continued success of the program and, at the same time, take into consideration the changing nature of cultural development in the United States.

First of all, the Committee adds a restriction on the composition of the Federal Council on the Arts and Humanities (those charged with the administration of the Arts and Artifacts Indemnity program). Two of the former members, the Secretary of the Smithsonian and the Director of the National Gallery of Art could represent a conflict of interest. The other two, the Chairman of the Senate Commission of Art and Antiquities and the Speaker of the House, are not appointed in the manner prescribed in the Constitution for appointment of officers of the United States performing executive functions. In 1975, when President Ford signed the enacting legislation, he made note of the exclusion of these four members; this amendment will enable the legislation to conform to current practice.

Furthermore, the Committee modifies the exchange requirement in the Arts and Artifacts Indemnity program, making possible indemnity coverage for U.S.-owned works while on exhibition abroad even when no return exhibition is promised or planned. At the same time, it retains the general reference for an exchange. The Arts and Artifacts indemnity program has unquestionably directly benefitted the American public by facilitating the exhibition of important international works of art in the United States. Conversely, the loan of American Art abroad can, in the Committee's opinion, contribute to a better world-wide understanding of American culture and heritage.

The proposed amendment is not intended to modify the present practice of the Federal Council of granting indemnity coverage primarily to works coming to the United States from abroad for exhibition. Similarly, in eliminating the prohibition of indemnity coverage of both parts of an exchange of exhibitions, the Committee does not intend to encourage any major shift in emphasis in existing indemnity patterns. Both changes would give the Federal Council more flexibility in granting indemnity.

The Committee does find that the current exchange requirement is, in certain instances, restrictive. Therefore, the Committee believes that it is important to provide the Federal Council with the necessary flexibility to provide coverage for exceptional exhibitions of national or international importance.

When a single exhibition comprises works both from the United States and from abroad and that exhibition is to be shown at sites both in the United States and abroad, indemnity coverage could be available for the foreign-owned works while on exhibition here and for the U.S.-owned works while on exhibition abroad. When U.S. and foreign institutions collaborate on such a joint exhibition, it is hoped that the responsibilty for indemnity will be shared.

The committee also finds that it is important to increase the aggregate level of insurance available for art exhibitions under this statute at any one time from $400,000,000 to $650,000,000. This increase is necessary to accomodate the effect of inflation on the value of art works since the current limit was established. Since its enactment in 1975, this program has cost the Federal Government only $10,000; therefore the Committee does not anticipate that this increase would increase the cost of the program.

Similarily, since the establishment of the Arts and Artifacts Indemnity program in 1975, the maximum level of indemnification per exhibition has remained at $50 million. While approving the aggregate increase, the Committee believes that it is appropriate to raise the level of indemnity for individual exhibitions to $75 million as well. This would represent the first increase per exhibition in the ten year history of the program. The Committee believes that greater effort should be made not only to expand the variety of exhibitions but also to make them widely accessible, provide greater circulation and extend the availability of indemnification to museums of all sizes. The composition of the indemnity review panel should reflect the varied range of the museum field as referenced in the aforementioned section of the Museum Services Act.

### (3) NEW INITIATIVES

#### *(a) Commemoration of the Bicentennial of the Constitution and the Bill of Rights*

S. 1264 authorizes a new program within the National Endowment for the Humanities, a program to commemorate the Bicentennial of the Constitution and the Bill of Rights for elementary and secondary school students.

It is the Committee's intent that the programs sponsored by the NEH as authorized by this amendment should awaken young American student's interest in their own government and the writings of the Constitution and the Bill of Rights. The Committee further recognizes that the Nation's elementary and secondary schools play a role in promoting the study of the humanities, primarily because they are generally a student's first formal introduction to the study of the humanities. It is our belief that these students should be assisted by the National Endowment for the Humanities as well.

Therefore, the Committee is specifically directing this program **toward elementary and secondary students.**

(4) COMMITTEE DIRECTIVES

*GAO Study*

The committee notes that public concern about the federal deficit has helped to raise serious questions concerning the most appropriate annual levels of general revenue funding for the national endowments. However, in recent years Congress has consistently maintained or increased appropriations for the endowments in the belief that adequate federal funding in this area is essential and represents a wise investment in the cultural development of our people and our nation. As evidenced by the levels of funding authorized by this Act, the Committee believes very strongly that the federal government should continue to be the primary source of funding for the NEA, the NEH, and the IMS.

By the same token, the Committee has also concluded that it would be wise and fiscally responsible to examine alternative federal funding mechanisms which could possibly supplement general revenue funding for the endowments in the future. For this reason, the committee has included a provision in this Act which would authorize the General Accounting Office to conduct a one year study to identify possible supplemental federal funding mechanisms and to assess their potential impact on a variety of activities listed in the Act. Under no circumstances should the committee's authorization of this study be construed as an effort to reduce overall federal funding for endowment-related activities.

In addition to considering the impact of the supplemental funding mechanisms on those activities listed in the Act, the committee believes the GAO study should also consider the following: the amount of money that would be raised under each supplemental funding proposal, the most appropriate means of collecting, administering, and distributing funds under each proposal, and a description and analysis of the statutory changes which each proposal would entail.

*Indirect Costs*

The Committee recognizes that granting indirect costs as part of a grant award is a legitimate government procedure. However, in the case of smaller agencies like the National Endowments for the Arts and Humanities with limited funds at their disposal, it would seem prudent to limit indirect cost payments to a ceiling of an indirect cost rate of 35%. This would provide for more than adequate opportunity for any grantee institution to recover the cost of having a grant project on its premises.

*EEOC Guidelines*

The Committee fully intends that each of the agencies authorized herein will comply with the EEOC guidelines and regulations.

*Peer Panel Review*

In addition, the Committee endorses in strongest terms the peer panel review system which the Endowments follow and intends that individuals who participate in these review panels continue to receive compensation for their work.

The Committee also requests that both Endowments make available to any interested parties the names of all panelists as soon as they are officially selected to serve on any review panel.

*Challenge Grant Program*

With the enactment of the Arts, Humanities and Cultural Affairs Act of 1976 Congress established the challenge grant program in NEA aimed at improving the ability of cultural institutions to develop and enlarge their sources of support and to endeavor to stabilize their funding operations. From the outset, state and local arts agencies were eligible, as "public agencies" within the meaning of the statute, to receive challenge funding, but under NEA guidelines they could apply only on behalf of specified arts organizations. Consequently the Arts and Humanities Act of 1980 amended the challenge grant section in the NEA authorizing statute to extend eligibility specifically to state and local arts agencies. The 1980 legislative history noted that challenge grants could be successful in encouraging increased support for the arts from state and local government, and Congress recommended that NEA set aside money in fiscal 1981 to begin planning for state and local challenge grantees and implement the program in succeeding years.

This has not happened. The eligibility of state and local arts agencies has been limited by NEA to strictly defined applications made on behalf of consortia of arts organizations, and only three states have been recipients under these circumstances.

The Committee recommends that NEA begin now to address questions about the direction of challenge-like grants in the years ahead once the current round of grants has been completed, with an aim toward affecting the long-term enhancement of the arts.

The Committee believes that state and local arts agencies are in an excellent position to participate as partners with the federal government in carrying out this purpose. Directing a portion of these enhancement funds to state and local arts agencies would not only extend the accessibility of the arts to more people, including extending the benefits of this support to rural areas and to multicultural programs, it would broadly improve accessibility to federal support available for the arts. The Committee is aware that of the total number of challenge grants awarded since the program was first begun in 1977, over half have gone to arts institutions in just four states, and no arts organization in four other states has ever received challenge funding.

Thirteen states have established their own challenge programs. NEA support could spur the development of others to address the fiscal stabilization of arts institutions in their states, stimulate increased funds for the arts, and, according to a state's priorities, promote major, long-term artistic initiatives.

*Arts Education*

The Committee commends the initiatives undertaken by Chairman Frank Hodsoll with respect to arts education and hopes that he will pursue, as will his successor, with the full strength of statutory authority, a strong agenda in this area.

*Humanities Preservation*

The Committee finds that in order to ensure that federal funds for preservation projects are used most effectively, in reviewing proposals for the preservation of humanities resources, the National Endowment for the Humanities should see that national standards and widely accepted guidelines are to be observed, insofar as they apply, and that the most effective available means for providing access is ensured.

*Human Resources*

The Committee would like to acknowledge that for the past 15 years the National Endowment for the Humanities has consistently supported the acquisition of information on advanced degree humanists—tracking their careers, providing data on tenure, rank, salary, and nature of employment for those both inside and outside the academy—in order to give some idea of the pool of humanists in American Society. The Committee commends these activities and encourages the Endowment to continue in this area.

## NATIONAL ENDOWMENT FOR THE HUMANITIES INSTITUTE AND SEMINARS

The Committee notes with particular satisfaction certain aspects of the Endowment's work during the past several years. In education, the Endowment's support of seminars and institutes for high school and college teachers has made available at modest cost important regenerative training for thousands of teachers. In addition, the Endowment's effort to encourage colleges and universities to undertake curriculum reform, particularly of general education and degree requirements, and to emphasize the central disciplines of the humanities has had rapid and direct effects on many colleges and universities. The Committee encourages the Endowment to continue these efforts.

The Committee applauds also the Endowment's continuing support for the bedrock of advanced scholarly research in the humanities on which all other work in the humanities depends. The Endowment's long-term commitment to the preparation of scholarly editions and other reference tools has required single-mindness, particularly when competing demands for limited funds are felt strongly. The Endowment should continue to support these long-term scholarly projects.

At the same time, the Committee wishes to note its concern over certain other tendencies at the Endowment in the past few years. The Committee notes that many senior staff positions have been subject to rapid turnover. This churning of the staff suggests a lack of appreciation on the part of the current administration of the Endowment for the importance of professional expertise and continuity in those high level positions. Expertise in the staff is essential to the Endowment's continuing good work. Neither political loyalty nor freedom from bureaucratic fiefdoms is of equivalent importance. The Committee does not regard as desirable the destabilization of operating programs through inappropriate or frequent reassignment of senior staff.

The Committee notes with further concern several corollaries of these tendencies. In some parts of the humanities world, such as the museum and television sectors, the instability of staffing has contributed to the Endowment's failure to exercise leadership for the planning and development of major long-term projects. The Endowment should undertake such projects. Moreover, the Committee notes with conern the reticence of the Endowment's current leadership to work cooperatively with professional and scholarly groups.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, July 29, 1985.*

Hon. ORRIN G. HATCH,
*Chairman, Committee on Labor and Human Resources,*
*U.S. Senate,*
*Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 1264, the National Foundation on the Arts and the Humanities Amendments of 1985, as ordered reported by the Senate Committee on Labor and Human Resources on July 26, 1985.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

RUDOLPH G. PENNER, *Director.*

## VI. CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

JULY 29, 1985.

1. Bill number: S. 1264.
2. Bill title: National Foundation on the Arts and the Humanities Amendments of 1985.
3. Bill status: As ordered reported by the Senate Committee on Labor and Human Resources on July 26, 1985.
4. Bill purpose: This bill authorizes appropriations for the National Endowments for the Arts and the Humanities and the Institute of Museum Services in fiscal years 1986 through 1990.
5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

| | 1986 | 1987 | 1988 | 1989 | 1990 |
|---|---|---|---|---|---|
| National Endowment for the Arts: | | | | | |
| Estimated authorization level | 164 | 170 | 177 | 184 | 192 |
| Estimated outlays | 56 | 166 | 172 | 180 | 186 |
| National Endowment for the Humanities: | | | | | |
| Estimated authorization | 139 | 145 | 151 | 157 | 163 |
| Estimated outlays | 63 | 141 | 148 | 154 | 159 |
| Institute of Museum Services estimated authorization: | | | | | |
| Level | 22 | 22 | 23 | 24 | 25 |
| Estimated outlays | 20 | 22 | 23 | 24 | 25 |
| Total estimated authorization levels | 325 | 337 | 351 | 365 | 380 |
| Total outlays | 139 | 329 | 343 | 358 | 370 |

The costs of the bill fall within function 500.

*Basis of Estimate:* This bill authorizes specific amounts for the National Endowments for the Arts and the Humanities and the Institute of Museum Services in fiscal years 1986 through 1988. In fiscal years 1989 and 1990, the bill authorizes appropriations of such sums as may be necessary. This estimate uses the stated 1988 levels with the CBO baseline increases for estimating authorization levels in 1989 and 1990. The outlays are based on historical spending patterns for these programs.

6. Estimated cost to State and local governments: The National Endowments for the Arts and Humanities provide grants to both individuals and institutions. Eligible institutions include schools, museums, state and regional organizations, and state and local governments. About 10 percent of the funds are grants to state and local governments.

7. Estimate comparison: The House reported H.R. 2245, the National Foundation on the Arts and the Humanities Amendments of 1985, on May 8, 1985. The House bill authorizes appropriations of such sums as may be necessary for these programs in fiscal year 1986.

8. Previous CBO estimate: None.

9. Estimate prepared by: Stacey Sheffrin (226-2820).

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

## VII. Regulatory Impact Statement

In accordance with paragraph 5(a) of rule XXIX of the Standing Rules of the Senate concerning the regulatory impact of the proposed legislation, the Committee provided the following evaluation of the anticipated additional paperwork and other regulatory impact that would result from the implementation of S. 1264.

Since the bill does not change the substance of existing programs in ways that have any regulatory impact, the Committee does not anticiapte that any additional individuals or businesses would be regulated as result of the bill's enactment. Since most existing program regulations would be altered only slightly be the legislation, there should be minimal impact imposed on individuals, consumers, or businesses affected by the bill. The Committee does not believe that the enactment of S. 1264 will affect the personal privacy of individuals affected by the programs contained in it nor do they anticipate any increase in paperwork, time, or costs because of the adoption of these amendments.

## VIII. Changes in Current Law

### National Foundation on the Arts and the Humanities Act of 1965

(P.L. 89-209)

AN ACT To provide for the establish of the National Foundation on the Arts and the Humanities to promote progress and scholarship in the humanities and the arts in the United States, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

# TITLE I—ENDOWMENTS FOR ARTS AND HUMANITIES

## SHORT TITLE

SECTION 1. This title may be cited as the "National Foundation on the Arts and the Humanities Act of 1965."

## DECLARATION OF PURPOSE

SEC. 2. The Congress hereby finds and declares—

(1) that the encouragement and support of national progress and scholarship in the humanities and the arts, while primarily a matter for private and local initiative, is also an appropriate matter of concern to the Federal Government;

(2) that a high civilization must not limit its efforts to science and technology alone but must give full value and support to the other great branches of man's scholarly and cultural activity in order to achieve a better understanding of the past, a better analysis of the present, and a better view of the future;

(3) that democracy demands wisdom and vision in its citizens and that it must therefore foster and support a form of education designed to make men masters of their technology and not its unthinking servant;

(4) that it is necessary and appropriate for the Federal Government to complement, assist, and add to programs for the advancement of the humanities and the arts by local, State, regional, and private agencies and their organizations;

(5) that the practice of art and the study of the humanities requires constant dedication and devotion and that, while no government can call a great artist or scholar into existence, it is necessary and appropriate for the Federal government to help create and sustain not only a climate encouraging freedom of thought, imagination, and inquiry but also the material conditions facilitating the release of this creative talent;

(6) that the museums are vital to the preservation of our cultural heritage and should be supported in their role as curator or our national consciousness;

(7) that the world leaderhsip which has come to the Untied States cannot rest solely upon superior power, wealth, and technology, but must be solidly founded upon worldwide respect and admiration for the Nation's high qualities as a leader in the realm of ideas and of the spirt; and

(8) that, in order it implement these findings, it is desirable to establish a National Foundation on the Arts and the Humanities.

## DEFINITIONS

SEC. 3. As used in this Act—

(a) The term "humanities" includes, but is not limited to, the study of the following: language, both modern and classical; linguistics; literature; history; jurisprudence; philosophy; archeology; comparative religion; ethics; the history, criticism, and the theroy of the arts; those aspects of the social sciences which have humanistic

content and employ humanistic methods; and the study and application of the humanities to the human environment with particular attention to the relevance of the humanities to the current conditions of national life.

(b) The term "the arts" includes, but is not limited to, music (instrumental and vocal), dance, drama, folk art, creative writing, architecture and allied fields, painting, sculpture, photography, graphic and craft arts, industrial design, costume and fashion design, motion pictures, television, radio, tape and sound recording, the arts related to the presentation, performance, execution, and exhibition of such major art forms, and the study and application of the arts to human environment.

(c) The term "production" means plays (with or without music), ballet, dance and choral performances, concerts, recitals, operas, exhibitions, readings, motion pictures, television, radio, and tape and sound recordings, and any other activities involving the execution or rendition of the arts and meeting such standards as may be approved by the National Endowment for the Arts established by section 5 of this Act.

(d) The term "project" means existing programs which further the purposes of this Act, and programs newly organized to further such purposes, including programs to foster American artistic creativity, to commission works of art, to create opportunities for individuals to develop artistic talents when carried on as a part of a program otherwise included in this definition, and to develop and enhance public knowledge and understanding of the arts, and includes, where appropriate, rental, or purchase of facilities, purchase or rental of land, and acquisition of equipment. Such term also includes—

(1) the renovation of facilities if (A) the amount of the expenditure of Federal funds for such purpose in the case of any project does not exceed $25,000, or (B) two-thirds of the members of the National Council on the Arts or the National Council on the Humanities, as the case may be (who are present and voting) approved of the grant or contract involving an expenditure for such purposes; and

(2) *for the purposes of section 5(1) only,* the construction of facilities if (A) such construction is for demonstration purposes or under unusual circumstances where there is no other manner in which to accomplish an artistic purpose, and (B) two-thirds of the members of the National Council on the Arts (who are present and voting) approve of the grant or contract involving an expenditure for such purpose.

(e) The term "group" includes any State or other public agency, and any nonprofit society, institution, organization, association, museum, or establishment in the United States, whether or not incorporated.

(f) The term "workshop" means an activity the primary purpose of which is to encourage the artistic development or enjoyment of amateur, student, or other nonprofessional participants, or to promote scholarship and teaching among the participants.

(g) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Co-

lumbia, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.

ESTABLISHMENT OF A NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

SEC. 4. (a) There is established a National Foundation on the Arts and the Humanities (hereinafter referred to as the "Foundation"), which shall be composed of a National Endowment for the Arts, a National Endowment for the Humanities, a Federal Council on the Arts and the Humanities, and an Institute of Museum Services (hereinafter established).

(b) The purpose of the Foundation shall be to develop and promote a broadly conceived national policy of support for the humanities and the arts in the United States, and for institutions which preserve the cultural heritage of the United States pursuant to this Act.

(c) In the administration of this Act no department, agency, officer, or employee of the United States shall exercise any direction, supervision, or control over the policy determination, personnel, or curriculum, or the administration or operation of any school or other non-Federal agency, institution, organization, or association.

(20 U.S.C. 953) Enacted Sept. 29, 1965, P.L. 89-209, sec. 4, 79 Stat. 846; amended May 31, 1984, P.L. 98-306, sec. 4, 98 Stat. 223.

ESTABLISHMENT OF THE NATIONAL ENDOWMENT FOR THE ARTS

SEC. 5. (a) There is established within the Foundation a National Endowment for the Arts.

(b)(1) The Endowment shall be headed by a chairman, to be known as the Chairman of the National Endowment for the Arts, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The term of office of the Chairman shall be four years and the Chairman shall be eligible for reappointment. The provisions of this subsection shall apply to any person appointed to fill a vacancy in the office of Chairman. Upon expiration of his term of office the Chairman shall serve until his successor shall have been appointed and shall have qualified.

(c) The Chairman, with the advice of the National Council on the Arts, is authorized to establish and carry out a program of contracts with, or grants-in-aid or loans to, groups, or, in appropriate cases, individuals of exceptional talent engaged in or concerned with the arts, for the purpose of enabling them to provide or support—

(1) projects and productions which have substantial artistic and cultural significance, giving emphasis to American creativity and cultural diversity and the maintenance and encouragement of professional excellence;

(2) projects and productions, meeting professional standards of authenticity, irrespective of origin, which are of significant merit and which, without such assistance, would otherwise be unavailable to our citizens for geographic or economic reasons;

(3) projects and productions that will encourage and assist artists and enable them to achieve wider distribution of their

works, to work in residence at an educational or cultural institution, or to achieve standards of professional excellence;

(4) workshops that will encourage and develop the appreciation and enjoyment of the arts by our citizens;

(5) programs for the arts at the local level; and

(6) other relevant projects, including surveys, research, planning, publications relating to the purposes of this subsection. In the case of publications under clause (5) of this subsection such publications may be supported without regard for the provisions of section 501 of title 44, United States Code, only if the Chairman consults with the Joint Committee on Printing of the Congress and the Chairman submits to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a report justifying any exemption from such section 501. Any loans made by the Chairman under this subsection shall be made in accordance with terms and conditions approved by the Secretary of the Treasury.

(d) No payment may be made to any group under this section except upon application therefor which is submitted to the National Endowment for the Arts in accordance with regulations and procedures established by the Chairman.

(e) The total amount of any grant to any group pursuant to subsection (c) of this section shall not exceed 50 per centum of the total cost of such project or production, except that not more than 20 per centum of the funds allotted by the National Endowment for the Arts for the purposes of subsection (c) for any fiscal year may be available for grants and contracts in that fiscal year without regard to such limitation.

(f) Any group shall be eligible for financial assistance pursuant to this section only if (1) no part of its net earnings inures to the benefit of any private stockholder or stockholders, or individual or individuals, and (2) donations to such group are allowable as a charitable contribution under the standards of subsection (c) of section 170 of the Internal Revenue Code of 1954.

(g)(1) The Chairman, with the advice of the National Council on the Arts, is authorized to establish and carry out a program of grants-in-aid to assist the several States in supporting existing projects and productions which meet the standards enumerated in section 5(c) of this Act, and in developing projects and productions in the arts in such a manner as will furnish adequate programs, facilities, and services in the arts to all the people and communities in each of the several States.

(2) In order to receive assistance under this subsection in any fiscal year, a State shall submit an application for such grants at such time as shall be specified by the Chairman and accompany such applications with a plan which the Chairman finds—

(A) designates or provides for the establishment of a State agency (hereinafter in this section referred to as the "State agency") as the sole agency for the administration of the State plan;

(B) provides that funds paid to the State under this subsection will be expended solely on projects and productions approved by the State agency which carry out one or more of the objectives of subsection (c); and

(C) provides that the State agency will make such reports, in such form and containing such information, as the Chairman may from time to time require.

(3) Of the sums available to carry out this subsection for any fiscal year, each State which has a plan approved by the Chairman shall be allotted at least $200,000. If the sums appropriated are insufficient to make the allotments under the preceding sentence in full, such sums shall be allotted among such States in equal amounts. In any case where the sums available to carry out this subsection for any fiscal year are in excess of the amount required to make the allotments under the first sentence of this paragraph—

(A) the amount of such excess which is no greater than 25 per centum of the sums available to carry out this subsection for any fiscal year shall be available only to the Chairman for making grants under this subsection to States and regional groups, and

(B) the amount of such excess, if any, which remains after reserving in full for the Chairman the amount required under clause (A) shall be allotted among the States which have plans approved by the Chairman in equal amounts but in no event shall any State be allotted less than $200,000.

(4)(A) The amount of each allotment to a State for any fiscal year under this subsection shall be available to each State, which has a plan approved by the Chairman in effect on the first day of such fiscal year to pay not more than 50 per centum of the total cost of any project or production described in paragraph (1). The amount of any allotment made under paragraph (3) for any fiscal year which exceeds $125,000 shall be available, at the discretion of the Chairman, to pay up to 100 per centum of such cost of projects and productions if such projects and productions would otherwise be unavailable to the residents of that State: *Provided,* That the total amount of any such allotment for any fiscal year which is exempted from such 50 per centum limitation shall not exceed 20 per centum of the total of such allotment for such fiscal year.

(B) Any amount allotted to a State under the first sentence of paragraph (3) for any fiscal year which is not obligated by the State prior to 60 days prior to the end of the fiscal year for which such sums are appropriated shall be available for making grants to regional groups.

(C) Funds made available under this subsection shall not be used to supplant non-Federal funds.

(D) For the purpose of paragraph (3) and paragraph (4) of this section the term "regional group" means any multistate group, whether or not representative of contiguous States.

(E) For purposes of paragraph (3)(B), the term "State" includes, in addition to the several States of the Union, only those special jurisdictions specified in section 3(g) which have a population of 200,000 or more, according to the latest decennial census.

(5) All amounts allotted or made available under paragraph (3) for a fiscal year which are not granted to a State during such year shall be available at the end of such year to the National Endowment for the Arts for the purpose of carrying out section 5(c).

(h) Whenever the Chairman, after reasonable notice and opportunity for hearing, finds that—

(1) a group is not complying substantially with the provisions of this section;

(2) a State agency is not complying substantially with terms and conditions of its State plan approved under this section; or

(3) any funds granted to a group or State agency under this section have been diverted from the purposes for which they are allotted or paid,

the Chairman shall immediately notify the Secretary of the Treasury and the group or State agency with respect to which such finding was made that no further grants will be made under this section to such group or agency until there is no longer any default or failure to comply or the diversion has been corrected, or, if compliance or correction is impossible, until such group or agency repays or arranges the repayment of the Federal funds which have been improperly diverted or expended.

(i) It shall be a condition of the receipt of any grant under this section that the group or individual of exceptional talent or the State or State agency receiving such grant furnish adequate assurances to the Secretary of Labor that (1) all professional performers and related or supporting professional personnel (other than laborers and mechanics with respect to whom labor standards are prescribed in subsection (j) of this section) employed on projects or productions which are financed in whole or in part under this section will be paid, without subsequent deduction or rebate on any account, not less than the minimum compensation as determined by the Secretary of Labor to be the prevailing minimum compensation for persons employed in similar activities; and (2) no part of any project or production which is financed in whole or in part under this section will be performed or engaged in under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees engaged in such project or production. Compliance with the safety and sanitary laws of the State in which the performance or part thereof is to take place shall be prima facie evidence of compliance. The Secretary of Labor shall have the authority to prescribe standards, regulations, and procedures as he may deem necessary or appropriate to carry out the provisions of this subsection.

(j) It shall be a condition of the receipt of any grant under this section that the groups or individual of exceptional talent or the State or State agency receiving such grant furnish adequate assurances to the Secretary of Labor that all laborers and mechanics employed by contractors or subcontractors on construction projects assisted under this section shall be paid wages at rates not less than those prevailing on similiar construction in the locality as determined by the Secretary of Labor in accordance wih the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5). The Secretary of Labor shall have with respect to the labor standards specified in this subsection the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(k) The Chairman shall correlate the programs of the National Endowment for the Arts insofar as practicable, with existing Feder-

al programs and with those undertaken by other public agencies or private groups, and shall develop the programs of the Endowment with due regard to the contribution to the objectives of this Act which can be made by other Federal agencies under existing programs. The Chairman may enter into interagency agreements to promote or assist with the arts-related activities of other Federal agencies, on a reimbursable or nonreimbursable basis, and may use funds authorized to be appropriated for the purposes of subsection (c) for the costs of such activities.

(l)(1) The Chairman of the National Endowment for the Arts, with the advice of the National Council on the Arts, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of contracts with, or grants-in-aid to, public agencies and private nonprofit organizations, on a national, State, or local level, for the purpose of strengthening quality by—

(A) enabling cultural organizations and institutions to increase the levels of continuing support and to increase the range of contributors to the programs of such organizations or institutions;

(B) providing administrative and management improvements for cultural organizations and institutions, particularly in the field of long-range financial planning;

(C) enabling cultural organizations and institutions to increase audience participation in, and appreciation of, programs sponsored by such organizations and institutions;

(D) providing additional support for cooperative efforts undertaken by State arts agencies with local arts groups to promote effective arts activity at the State and local level, including support of professional artists in community-based residencies;

(E) stimulating greater cooperation among cultural organizations and institutions especially designed to serve better the communities in which such organizations or institutions are located; and

(F) fostering greater citizens involvement in planning the cultural development of a community.

(2) The total amount of any payment made under this subsection for a program or project may not exceed 50 per centum of the cost of such program or project.

(3) In carrying out the program authorized by this subsection, the Chairman of the National Endowment for the Arts shall have the same authority as is established in section 5(c) and section 10.

NATIONAL COUNCIL ON THE ARTS

SEC. 6. (a) There shall be, within the National Endowment for the Arts, a National Council on the Arts (hereinafter in this section referred to as the "Council").

(b) The Council shall be composed of the Chairman of the National Endowment for the Arts, who shall be Chairman of the Council, and twenty-six other members appointed by the President, by and with the advice and consent of the Senate, who shall be selected—

(1) from among private citizens of the United States who are widely recognized for their broad knowledge of, or expertise in, or for their profound interest in, the arts;

(2) so as to include practicing artists, civic cultural leaders, members of the museum profession, and others who are professionally engaged in the arts; and

(3) so as collectively to provide an appropriate distribution of membership among the major art fields.

The President is requested, in the making of such appointments, to give consideration to such recommendations as may, from time to time, be submitted to him by leading national organizations in these fields.

(c) Each member shall hold office for a term of six years, and the terms of office shall be staggered. The terms of office of all Council members shall expire on the third day of September in the year of expiration. No member shall be eligible for reappointment during the two-year period following the expiration of his term. Any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. Notwithstanding any other provision of this subsection, a member shall serve after the expiration of his term until his successor takes office.

(d) The Council shall meet at the call of the Chairman but not less often that twice during each calendar year. Fourteen members of the Council shall constitute a quorum.

(e) Members shall receive compensation at a rate to be fixed by the Chairman but not to exceed the per diem equivalent of the rate authorized for grade GS–18 by section 5332 of title 5 of the United States Code and be allowed travel expenses including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

(f) The Council shall (1) advise the Chairman with respect to policies, programs, and procedures for carrying out his functions, duties, or responsibilities under this Act, and (2) review applications for financial assistance under this Act and make recommendations thereon to the Chairman. The Chairman shall not approve or disapprove any such application until he has received the recommendation of the Council on such application, unless the Council fails to make a recommendation thereon within a reasonable time. In the case of an application involving **[**$17,500**]** *$30,000* or less, the Chairman may approve or disapprove such request if such action is taken pursuant to the terms of a delegation of authority from the Council to the Chairman, and provided that such action by the Chairman shall be reviewed by the Council: *Provided,* That the terms of any such delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceed an amount equal to 10 per centum of the sums appropriated for that fiscal year pursuant to sub-paragraph (A) of paragraph (1) of section 11(a).

ESTABLISHMENT OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

SEC. 7. (a) There is established within the Foundation a National Endowment for the Humanities.

(b)(1) The Endowment shall be headed by a chairman, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The term of office of the Chairman shall be four years, and the Chairman shall be eligible for reappointment. The provisions of this paragraph shall apply to any person appointed to fill a vacancy in the office of the Chairman. Upon expiration of his term of office the Chairman shall serve until his successor shall have been appointed and shall have qualified.

(c) The Chairman, with the advice of the National Council on the Humanities (hereinafter established), is authorized to—

(1) develop and encourage the pursuit of a national policy for the promotion of progress and scholarship in the humanities;

(2) initiate and support research and programs to strengthen the research and teaching potential of the United States in the humanities by making arrangements (including contracts, grants, loans, and other forms of assistance) with individuals or groups to support such activities; any loans made by the Endowment shall be made in accordance with terms and conditions approved by the Secretary of the Treasury;

(3) award fellowships and grants to institutions or individuals for training and workshops in the humanities. Fellowships awarded to individuals under this authority may be for the purposes of study or research at appropriate non-profit institutions selected by the recipient of such aid, for stated periods of time;

(4) foster the interchange of information in the humanities;

(5) foster, through grants or other arrangements with groups, education in, and public understanding and appreciation of the humanities;

(6) support the publication of scholarly works in the humanities; and

(7) insure that the benefit of its programs will also be available to our citizens where such programs would otherwise be unavailable due to geogrpahic or economic reasons.

In the case of publications under clause (6) of this subsection such publications may be supported without regard for the provisions of section 501 of title 44, United States Code, only if the Chairman consults with the Joint Committee on Printing of the Congress and the Chairman submits to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a report justifying any exemption from such section 501.

(d) The Chairman shall correlate the programs of the National Endowment for the Humanities, insofar as practicable, with existing Federal programs, designated State humanities agencies and with those undertaken by other public agencies or private groups, and shall develop the programs of the Endowment with due regard to the contribution to the objectives of this Act which can be made by other Federal agencies under existing programs.

(e) The total amount of any grant under subsection (c)(3) to any group engaging in workshop activities for which an admission or other charge is made to the general public shall not exceed 30 per centum of the total cost of such activities.

(f)(1) The Chairman, with the advice of the National Council on the Humanities, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of grants-in-aid in each of the several States in order to support not more than 50 per centum of the cost of existing activities which meet the standards enumerated in subsection (c) of this section, and in order to develop a program in the humanities in such a manner as will furnish adequate programs in the humanities in each of the several States.

(2)(A) Whenever a State desires to designate or to provide for the establishment of a State agency as the sole agency for the administration of the State plan, such State shall designate the humanities council in existence on the date of the enactment of the Arts and Humanities Act of 1980, as the State agency, and shall match from State funds a sum equal to 50 per centum of that portion of Federal financial assistance received by such State under this subsection which is described in the first sentence of paragraph (4) relating to the minimum State grant, or 25 per centum of the total amount of Federal financial assistance received by such State under this subsection, whichever is greater, for the fiscal year involved. In any State in which the State selects the option described in this subparagraph, the State shall submit, before the beginning of each fiscal year, an application for grants and accompany such application with a plan which the Chairman finds—

(i) designates or provides for the establishment of a State agency (hereinafter in this section referred to as the "State agency") as the sole agency for the administration of the State plan;

(ii) provides that the chief executive of the State will appoint new members to the State humanities council designated under the provisions of this subparagraph, as vacancies occur as a result of the expiration of the terms of members of such council, until the chief executive has appointed all of the members of such council;

(iii) provides, from State funds, an amount equal to 50 per centum of that portion of Federal financial assistance received by such State under this subsection which is described in the first sentence of paragraph (4) relating to the minimum State grant, or 25 per centum of the total amount of Federal financial assistance received by such State under this subsection, whichever is greater, for the fiscal year involved;

(iv) provides that funds paid to the State under this subsection will be expected solely on programs approved by the State agency which carry out the objectives of subsection (c) and which are designed to bring the humanities to the public;

(v) provides assurances that State funds will be newly appropriated for the purpose of meeting the requirements of this subparagraph; and

(iv) provides that the State agency will make such reports, in such form and containing such information, as the Chairman may require.

(B) In any State in which the chief executive officer of the State fails to submit an application under subparagraph (A), the grant recipient in such State shall—

(i) establish a procedure which assures the [four] *six* members of the governing body of such grant recipient shall be appointed by an appropriate officer or agency of such State, except that in no event may the number of such members exceed [20] *25* per centum of the total membership of such governing body; and

(ii) provide, from any source, an amount equal to the amount of Federal financial assistance received by such grant recipient under this subsection for the fiscal year involved.

(3) Whenever a State selects to receive Federal financial assistance under this subsection for any fiscal year under paragraph (2)(B), any appropriate entity desiring to receive such assistance shall submit an application for such assistance at such time as shall be specified by the Chairman. Each such application shall be accompanied by a plan which the Chairman finds—

(A) provides assurances that the grant recipient will comply with the requirements of paragraph (2)(B);

(B) provides that funds paid to the grant recipient will be expended solely on programs which carry out the objectives of subsection (c);

(C) establishes a membership policy which is designed to assure broad public representation with respect to programs administred by such grant recipient;

(D) provides a nomination process which assures opportunities for nomination to membership from various groups within the State involved and from a variety of segments of the population of such State, and including individuals who by reason of their achievement, scholarship, or creativity in the humanities, are especially qualified to serve;

(E) provides for a membership rotation process which assures the regular rotation of the membership and officers of such grant recipient;

(F) establishes reporting procedures which are designed to inform the chief executive officer of the State involved, and other appropriate officers and agencies, of the activities of such grant recipient;

(G) establishes procedures to assure public access to information relating to such activities; and

(H) provides that such grant recipient will make reports to the Chairman, in such form, at such times, and containing such information, as the Chairman may require.

(4) Of the sums available to carry out this subsection for any fiscal year, each State and each grant recipient which has a plan approved by the Chairman shall be allotted at least $200,000. If the sums appropriated are insufficient to make the allotments under the preceding sentence in full, such sums shall be allotted among such States and grant recipients in equal amounts. In any case where the sums available to carry out this subsection for any fiscal year are in excess of the amount required to make the allotments under the first sentence of this paragraph—

(A) 34 per centum of the amount of such excess for such fiscal year shall be available to the Chairman for making grants under this subsection to States and regional groups and entities applying for such grants;

(B) 44 per centum of the amount of such excess for such fiscal year shall be allotted in equal amounts among the States and grant recipients which have plans approved by the Chairman; and

(C) 22 per centum of the amount of such excess for such fiscal year shall be allotted among the States and grant recipients which have plans approved by the Chairman in amounts which bear the same ratio to such excess as the population of the State for which the plan is approved (or, in the case of a grant recipient other than a State, the population of the State in which such grant recipient is located) bears to the population of all the States.

(5)(A) The amount of each allotment to a State for any fiscal year under this subsection shall be available to each State or grant recipient, which has a plan or application approved by the Chairman in effect on the first day of such fiscal year, to pay not more than 50 per centum of the total cost of any project or production described in paragraph (1). The amount of any allotment made under paragraph (4) for any fiscal year—

(i) which exceeds $125,000, but

(ii) which does not exceed 20 per centum of such allotment, shall

be available, at the discretion of the Chairman, to pay up to 100 per centum of the cost of programs under this subsection if such programs would otherwise be unavailable to the residents of that State.

(B) Any amount allotted to a State under the first sentence of paragraph (4) for any fiscal year which is not obligated by the State agency or grant recipient prior to sixty days prior to the end of the fiscal year for which such sums are appropriated shall be available to the Chairman for making grants to regional groups.

(C) Funds made available under this subsection shall not be used to supplant non-Federal funds.

(D) For the purposes of this paragraph, the term "regional group" means any multistate group, whether or not representative of contiguous States.

(E) For purposes of paragraph (4)(B), the term "State" and the term "grant recipient" include, in addition to the several States of the Union, only those special jurisdictions specified in section 3(g) which have a population of 200,000 or more, according to the latest decennial census.

(6) All amounts allotted or made available under paragraph (4) for a fiscal year which are not granted to any entity during such fiscal year shall be available to the National Endowment for the Humanities for the purpose of carrying out subsection (c).

(7) Whenever the Chairman, after reasonable notice and opportunities for hearing, finds that—

(A) a group or grant recipient is not complying substantially with the provisions of this subsection;

(B) a State agency or grant recipient is not complying substantially with terms and conditions of its State plan grant recipient application approved under this subsection; or

(C) any funds granted to any group or State agency or grant recipient under this subsection have been diverted from the purposes for which they are allotted or paid,

the Chairman shall immediately notify the Secretary of the Treasury and the group, State agency, or grant recipient with respect to which such finding was made that no further grants will be made under this subsection to such group, State agency, or grant recipient until there is no longer a default or failure to comply or the diversion has been corrected, or, if the compliance or correction is impossible, until such group, State agency, or grant recipient repays or arranges the repayment of the Federal funds which have been improperly diverted or expended.

(8) Except as provided in paragraphs (4), (5), and (6), the Chairman may not make grants under this subsection to more than one entity in any State.

(g) It shall be a condition of the receipt of any grant under this section that the group, individual, or State agency or entity receiving such grant furnish adequate assurances to the Secretary of Labor that (1) all professional performers and related or supporting professional personnel employed on projects or productions which are financed in whole or in part under this section will be paid, without subsequent deduction or rebate on any account, not less than the minimum compensation as determined by the Secretary of Labor to be the prevailing minimum compensation for persons employed in similar activities; and (2) no part of any project or production which is financed in whole or in part under this section will be performed or engaged in under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees engaged in such project or production. Compliance with the safety and sanitary laws of the State in which the performance or part thereof is to take place shall be prima facie evidence of compliance. The Secretary of Labor shall have the authority to prescribe standards, regulations, and procedures as he may deem necessary or appropriate to carry out the provisions of this subsection.

(h)(1) The Chairman of the National Endowment for the Humanities, with the advice of the National Council on the Humanities, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of contracts with, or grant-in-aid to, public agencies and private nonprofit organizations for the purpose of—

(A) enabling cultural organizations and institutions to increase the levels of continuing support and to increase the range of contributions to the program of such organizations or institutions;

(B) providing administrative and management improvements for cultural organizations and institutions, particularly in the field of long-range financial planning;

(C) enabling cultural organizations and institutions to increase audience participation in, and appreciation of, programs sponsored by such organizations and institutions;

(D) stimulating greater cooperation among cultural organizations and institutions especially designed to serve better the

communities in which such organizations or institutions are located;

(E) fostering greater citizen involvement in planning the cultural development of a community; and

(F) for bicentennial programs, assessing where our society and Government stand in relation to the founding principles of the Republic, primarily focused on projects which will bring together the public and private citizen sectors in an effort to find new processes for solving problems facing our Nation in its third century.

(2)(A) Except as provided in subpargraph (B) of this paragraph, the total amount of any payment made under this subsection for a program or project may not exceed 50 per centum of the cost of such program or project.

(B) The Chairman, with the advice of the Council, may waive all or part of the requirement of matching funds provided in subparagrah (A) of this paragraph, but only for the purposes described in clause (F) of paragraph (1), whenever he determines that highly meritorious proposals for grants and contracts under such clause, could not otherwise be supported from non-Federal sources or from Federal sources other than funds authorized by section 11(a)(3), unless such matching requirement is waived. Such waiver may not exceed 15 per centum of the amount appropriated in any fiscal year and available to the National Endowment on the Humanities for the purpose of this subsection.

(3) In carrying out the program authorized by this subsection, the Chairman of the National Endowment for the Humanities shall have the same authority as is established in section 7(c) and section 10.

*PROGRAM FOR THE COMMEMORATION OF THE BICENTENNIAL OF THE CONSTITUTION OF THE UNITED STATES AND THE BILL OF RIGHTS*

*(i)(1) The Chairman of the National Endowment for the Humanities, with the advice of the National Council on the Humanities, shall, in accordance with the provisions of this subsection, carry out a program in the humanities for the commemoration of the bicentennial of the Constitution of the United States and the Bill of Rights.*

*(2) To commemorate the bicentennial anniversary of the Constitution of the United States and the Bill of Rights, the Chairman of the National Endowment for the Humanities—*

*(A) is authorized to make grants to local educational agencies, private elementary and secondary schools, private organizations, individuals, and State and local public agencies in the United States for the development of instructional materials and programs on the Constitution of the United States and the Bill of Rights which are designed for use by elementary or secondary school students; and*

*(B) shall implement an annual national bicentennial Constitution and Bill of Rights competition based upon the programs developed and used by elementary and secondary schools.*

*(3) In carrying out the progam authorized by this subsection, the Chairman of the National Endowment for the Humanities shall have the same authority as is established in section 10.*

ESTABLISHMENT OF THE NATIONAL COUNCIL ON THE HUMANITIES

SEC. 8. (a) There is established in the National Endowment for the Humanities a National Council of the Humanities.

(b) The Committee shall be composed of the Chairman of the National Endowment on the Humanities, who shall be the Chairman of the Council, and twenty-six other members appointed by the President, by and with the advice and consent of the Senate, from private life. Such members shall be selected *from citizens of the United States who are recognized for their knowledge of, expertise in, or commitment to the humanities and* on the basis of distinguished service and scholarship or creativity and in a manner which will provide a comprehensive representation of the views of scholars and professional practitioners in the humanities and of the public throughout the United States. The President is requested in the making of such appointments to give consideration to such recommendations as may from time to time be submitted to him by leading national organizations concerned with the Humanities.

(c) Each member shall hold office for a term of six years, except that (1) the members first taking office shall serve, as designated by the President, nine for terms of two years, nine for terms of four year, and eight for terms of six years, and (2) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. No member shall be eligible for reappointment during the two-year period following the expiration of his term. Notwithstanding any other provisions of this subsection, a member shall serve after the expiration of his term until his successor takes office.

(d) The Council shall meet at the call of the Chairman but not less often than twice during each calendar year. Fourteen members shall constitute a quorum.

(e) Members shall receive compensation at a rate to be fixed by the Chairman but not to exceed the per diem equivalent of the rate authorized for grade GS–18 by section 5332 of title 5 of the United States Code and be allowed travel expenses including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

(f) The Council shall (1) advise the Chairman with respect to policies, programs, and procedures for carrying out his functions, and (2) shall review applications for financial support and make recommendations thereon to the Chairman. The Chairman shall not approve or disapprove any such application until he has received the recommendation of the Council of such application, unless the Council fails to make a recommendation thereon within a reasonable time. In the case of any application involving $30,000, or less, the Chairman may approve or disapprove such request if such action is taken pursuant to the terms of a delegation of authority from the Council to the Chairman, and provided that each such action by the Chairman shall be reviewed by the Council: *Provided,*

That the terms of any such delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceed an amount equal to 10 per centum of the sums appropriated for that fiscal year pursuant to subparagraph (B) of paragraph (1) of section 11(a).

ESTABLISHMENT OF THE FEDERAL COUNCIL ON THE ARTS AND THE HUMANITIES

SEC. 9. (a) There is established within the Foundation a Federal Council on the Arts and the Humanities.

(b) The Council shall be composed of the Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, the Director of the Institute of Museum Services, the Secretary of Education, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, the Librarian of Congress, the Director of the National Gallery of Art, the Chairman of the Commission of Fine Arts, the Archivist of the United States, the Commissioner, Public Buildings Service, General Services Administration, the Commissioner on Aging, a member designated by the Secretary of State, and a member designated by the Secretary of the Interior, a member designated by the Chairman of the Senate Commission of Art and Antiquities, and a member designated by the Speaker of the House. The President shall designate the Chairman of the Council from among the members. The President is authorized to change the membership of the Council from time to time as he deems necessary to meet changes in Federal program or executive branch organization.

(c) The Council shall—

(1) advise and consult with the Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities on major problems arising in carrying out the purposes of the Foundation;

(2) advise and consult with the National Museum Services Board and with the Director of the Institute of Museum Services on major problems arising in carrying out the purposes of such Institute;

(3) coordinate, by advice and consultation, so far as is practicable, the policies and operations of the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services including joint support of activities, as appropriate;

(4) promote coordination between the programs and activities of the Foundation and related programs and activities of other Federal agencies;

(5) plan and coordinate appropriate participation (including productions and projects) in major and historic national events; and

(6) undertake studies and make reports which address the state of the arts and humanities, particularly with respect to their economic needs and problems.

[(d)(1) The Council shall conduct a study of the state of employment opportunities for professional artists. Such study shall be undertaken in cooperation and consultation with the Secretary of

Labor and shall address in particular (A) the effectiveness of existing Federal programs, such as programs administered under the Comprehensive Employment and Training Act, in serving and enhancing the employment opportunities of professional artists; and (B) the need for new programs to serve and enhance the employment opportunities of professional artists.

[(2) Not later than one year after the date of the enactment of the Arts and Humanities Act of 1980, the Chairman of the Council shall submit a report to the President and to the Congress relating to the results of the study required in paragraph (1), including such findings and recommendations (including legislative recommendations) as may be appropriate. Any recommendation involving changes in Federal legislation shall be accompanied by draft legislation.

[(3) Notwithstanding any other provision of law, no Federal agency or officer of the Federal Government shall have any authority to require the Council to submit the report required in paragraph (2) to any Federal agency or officer of the Federal Government for approval, comments, or review, before submission of such report to the Congress. The President may make such additional comments and recommendations with respect to the contents of such report as he may deem appropriate.

[(e)(1) The Council shall conduct a study of (A) the effectiveness of the program authorized by the Arts and Artifacts Indemnity Act (20 U.S.C. 971 et seq.); (B) the impact and feasibility of expanding the existing indemnity program to include the indemnification of objects loaned by lenders located in the United States for exhibition exclusively in the United States; and (C) other means to encourage and facilitate the wider sharing within the United States of the items described in section 3(a) of the Arts and Artifacts Indemnity Act (20 U.S.C. 972(a)), such as the development of standardized insurance policies and the development of a Federal technical assistance program to improve the curatorial facilities and personnel of museums.

[(2) Not later than one year after the date of the enactment of the Arts and Humanities Act of 1980, the Chairman of the Council shall submit a report to the President and to the Congress relating to the results of the study required in paragraph (1), including such findings and recommendations (including legislative recommendations) as may be appropriate. Any recommendation involving changes in Federal legislation shall be accompanied by draft legislation.]

ADMINISTRATIVE PROVISIONS

SEC. 10. (a) In addition to any authorities vested in them by other provisions of this Act, the Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities, in carrying out their respective functions, shall each have authority—

(1) to prescribe such regulations as he deems necessary governing the manner in which his functions shall be carried out;

(2) in the discretion of the Chairman of an Endowment, after receiving the recommendation of the National Council of that

Endowment, to receive money and other property donated, bequeathed, or devised to that Endowment with or without a condition or restriction, including a condition that the Chairman use other funds of that Endowment for the purposes of the gift, except that a Chairman may receive a gift without a recommendation from the Council to provide support for any application or project which can be approved without Council recommendation under the provisions of sections 6(f) and 8(f), and may receive gift of $15,000, or less, without Council recommendation in the event the Council fails to provide such recommendation within a reasonable period of time, and to use, sell, or otherwise dispose of such property for the purpose of carrying out sections 5(c) and 7(c);

(3) to appoint employees, subject to the civil service laws, as necessary to carry out his functions, define their duties, and supervise and direct their activities;

(4) to utilize from time ot time, as appropriate, experts and consultants, including panels of experts, who may be employed as authorized by section 15 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 55a): *Provided, however,* That any advisory panel appointed to review or make recommendations with respect to the approval of applications or projects for funding shall have broad geographic and culturally diverse representation;

(5) to accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by law (15 U.S.C. 73b-2) for persons in the Government service employed without compensation;

(6) to make advance, progress, and other payments without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529);

(7) to rent office space in the District of Columbia; and

(8) to make other necessary expenditures.

In any case in which any money or other property is donated, bequeathed, or devised to the Foundation (A) without designation of the Endowment for the benefit of which such property is intended, and (B) without condition or restriction other than it be used for purposes of the Foundation, such property shall be deemed to have been donated, bequeathed, or devised in equal shares to each Endowment and each Chairman of an Endowment shall have authority to receive such property. In any case in which any money or other property is donated, bequeathed, or devised to the Foundation with a condition or restriction, such property shall be deemed to have been donated, bequeathed, or devised to that Endowment whose function it is to carry out the purpose or purposes described or referred to by the terms of such condition or restriction, and each Chairman of an Endowment shall have authority to receive such property. For the purposes of the preceding sentence, if one or more of the purposes of such a condition or restriction is covered by the functions of both Endowments, or if some of the purposes of such a condition or restriction are covered by the functions of one Endowment and other of the purposes of such a condition or restric-

tion are covered by the functions of the other Endowment, the Federal Council on the Arts and the Humanities shall determine an equitable manner for distribution between each of the Endowments of the property so donated, bequeathed, or devised. For the purpose of the income tax, gift tax, and estate tax laws of the United States, any money or other property donated, bequeathed, or devised to the Foundation or one of its Endowments and received by the Chairman of an Endowment pursuant to authority derived under this subsection shall be deemed to have been donated, bequeathed, or devised to or for the use of the United States.

(b) The Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities shall each submit an annual report to the President for transmittal to the Congress on or before the 15th day of April of each year. The report shall summarize the activities of the Endowment for the preceding year, and may include such recommendations as the Chairman deems appropriate.

(c) The National Council on the Arts and the National Council on the Humanities, respectively, may each submit an annual report to the President for transmittal to the Congress on or before the 15th day of April of each year setting forth a summary of its activities during the preceding year or its recommendations for any measures which it considers necessary or desirable.

[(d)(1) The Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities each shall conduct a study of the use, sale, or other disposal of property under subsection (a)(2) for the purpose of carrying out sections 5(c) and 7(c). Each such study shall assess in particular (A) the effectiveness of such use, sale, or other disposal of property as an incentive for increasing the levels of non-Federal support; and (B) the extent to which activities carried out by each such Chairman under subsection (a)(2) result in undue administrative and financial burdens upon grant recipients.

[(2) Not later than two years after the date of the enactment of the Arts and Humanities Act of 1980, each Chairman shall submit a report to the President and to the Congress relating to the results of the studies required in paragraph (1), including such findings and recommendations (including legislative recommendations) as may be appropriate. Any recommendation involving changes in Federal legislation shall be accompanied by draft legislation.]

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. (a)(1)(A) [For the purpose of carrying out section 5(c), there are authorized to be appropriated to the National Endowment for the Arts $115,500,000 for fiscal year 1981, $127,000,000 for fiscal year 1982, $140,000,000 for fiscal year 1983, $128,500,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985. Of the sums so appropriated for any fiscal year, not less than 20 per centum shall be for carrying out section 5(g).] *For the purpose of carrying out section 5(c), there are authorized to be appropriated to the National Endowment for the Arts $118,678,000 for fiscal year 1986, $123,425,120 for fiscal year 1987, $128,362,125 for fiscal*

*year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.*

[(B) For the purpose of carrying out section 7(c), there are authorized to be appropriated to the National Endowment for the Humanities $114,500,000 for fiscal year 1981, $126,000,000 for fiscal year 1982, $138,500,000 for fiscal year 1983, $127,000,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985.] *For the purpose of carrying out section 7(c), there are authorized to be appropriated to the National Endowment for the Humanities $95,207,000 for fiscal year 1986, $99,015,280 for fiscal year 1987, $102,975,891 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.*

Of the sums so appropriated for any fiscal year, not less than 20 per centum shall be for carrying out section 7(f).

(2)(A) There are authorized to be appropriated for each fiscal year ending before October 1, [1985] *1990,* to the National Endowment for the Arts an amount equal to the sum of—

(i) the total amounts received by such Endowment under section 10(a)(2), including the value of property donated, bequeathed, or devised to such Endowment; and

(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out projects and other activities under paragraph (1) through paragraph (5) of section 5(c);

[except that the amounts so appropriated to the National Endowment for the Arts shall not exceed *$8,820,000 for fiscal year 1986,* $18,500,000 for fiscal year 1982, $18,500,000 for fiscal year 1983, $10,000,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985.]

*except that the amounts so appropriated to the National Endowment for the Arts shall not exceed $8,820,000 for fiscal year, $9,172,800 for fiscal year 1987, $9,539,712 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.*

(B) There are authorized to be appropriated for each fiscal year ending before October 1, [1985] *1990,* to the National Endowment for the Humanities an amount equal to the sum of—

(i) the total amounts received by such Endowment under section 10(a)(2), including the value of property donated, bequeathed, or devised to such Endowment; and

(ii) the total amounts received by the grantees and subgrantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, and subgrantees, for use in carrying out activities under paragraph (1) through paragraph (7) of section 7(c);

[except that the amounts so appropriated to the National Endowment for the Humanities shall not exceed $12,500,000 for fiscal year 1981, $14,000,000 for fiscal year 1982, $15,000,000 for fiscal year 1983, $11,500,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985.]

*except that the amounts so appropriated to the National Endowment for the Humanities shall not exceed $10,780,000 for fiscal year*

*1986, $11,211,200 for fiscal year 1987, $11,659,648 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.*

(3)(A) There are authorized to be appropriated for each fiscal year ending before October 1, [1985] *1990,* to the National Endowment for the Arts an amount equal to the sum of—

(i) the total amounts received by such Endowment, including the value of property donated, bequeathed, or devised to such Endowment, for the purposes set forth in section 5(l)(1) pursuant to the authority of section 10(a)(2); and

(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out activities under subparagraph (A) through subparagraph (F) of section 5(l)(1);

[except that the amounts so appropriated to such Endowment shall not exceed $27,000,000 for fiscal year 1981, $30,000,000 for fiscal year 1982, $32,500,000 for fiscal year 1983, $28,000,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985.]

*except that the amounts so appropriated to such Endowment shall not exceed $20,580,000 for fiscal year 1986, $21,403,200 for fiscal year 1987, $22,259,328 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.*

(B) There are authorized to be appropriated for each fiscal year ending before October 1, [1985] *1990,* to the National Endowment for the Humanities an amount equal to the sum of—

(i) the total amounts received by such Endowment, including the value of property donated, bequeathed, or devised to such Endowment, for the purposes set forth in section 7(h)(1) pursuant to the authority of section 10(a)(2); and

(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out activities under subparagraph (A) through subpargraph (F) of section 7(h)(1);

[except that the amounts so appropriated to such Endowment shall not exceed $30,000,000 for fiscal year 1981, $333,000,000 for fiscal year 1982, $36,000,000 for fiscal year 1983, $20,000,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985].

*except that the amounts so appropriated to such Endowment shall not exceed $19,600,000 for fiscal year 1986, $20,384,000 for fiscal year 1987, $21,199,360 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.*

***(4) Of the amounts appropriated for the fiscal year 1987 and for each of the succeeding fiscal years ending prior to October 1, 1990, $5,000,000 shall be available for the purpose of carrying out section 7(i).***"

[(4)] *(5)* The Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities, as the case may be, shall issue guidelines to implement the provisions of paragraph (2) and paragraph (3). Such guidelines shall be consistent with the requirements of section 5(e), section 5(l)(2), section 7(f), and section 7(h)(2), as the case may be, regarding total

Federal support of activities, programs, projects, or productions carried out under authority of this Act.

(b)(1) Sums appropriated pursuant to subsection (a) for any fiscal year shall remain available for obligation and expenditure until expended.

(2) In order to afford adequate notice to interested persons of available assistance under this Act, appropriations authorized under subsection (a) are authorized to be included in the measure making appropriations for the fiscal year preceding the fiscal year for which such appropriations become available for obligation.

[(c)(1) There are authorized to be appropriated to the National Endowment for the Arts $14,000,000 for fiscal year 1981, $15,000,000 for fiscal year 1982, $16,000,000 for fiscal year 1983, $17,000,000 for fiscal year 1984, and $18,000,000 for fiscal year 1985, to administer the provisions of this Act, or any other program for which the Chairman of the National Endowment for the Arts is responsible, including not to exceed $35,000 for each such fiscal year for official reception and representation expenses. The total amount which may be obligated or expended for such expenses for any fiscal year through the use of appropriated funds or any other source of funds shall not exceed $35,000.]

*(1) There are authorized to be appropriated to the National Endowment for the Arts $15,582,000 for fiscal year 1986, $16,205,280 for fiscal year 1987, $16,853,491 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990, to administer the provisions of this Act, or any other program for which the Chairman of the National Endowment for the Arts is responsible.*

[(2) There are authorized to be appropriated to the National Endowment for the Humanities $13,000,000 for fiscal year 1981, $14,500,000 for fiscal year 1982, $15,500,000 for fiscal year 1983, $16,500,000 for fiscal year 1984, and $17,500,000 for fiscal year 1985, to administer the provisoions of this Act, or any other program for which the Chairman of the National Endowment for the Humanities is responsible, including not to exceed $35,00 for each such fiscal year for official reception and representation expenses. The total amount which may be obligated or expended for such expenses for any fiscal year through the use of appropriated funds or any other source of funds shall not exceed $35,000.]

*(2) There are authorized to be appropriated to the National Endowment for the Humanities $13,891,000 for fiscal year 1986, $14,446,640 for fiscal year 1987, $15,024,505 for fiscal year 1988, and such sums as may be necessary for each of the fiscal year 1989 and 1990, to administer the provisions of this Act, or any other program for which the Chairman of the National Endowment for the Humanities is responsible.*

*(d)(1) The total amount of appropriations to carry out the activities of the National Endowment for the Arts shall not exceed—*

*(A) $163,660,000 for fiscal year 1986,*

*(B) $170,206,400 for fiscal year 1987, and*

*(C) $177,014,656 for fiscal year 1988.*

*(2) The total amount of appropriations to carry out the activities of the National Endowment for the Humanities shall not exceed—*

*(A) $139,478,000 for fiscal year 1986,*

*(B) $145,067,120 for fiscal year 1987, and*
*(C) $150,869,405 for fiscal year 1988.*

**[**(d)**]** *(e)* **No grant shall be made under this title to a workshop** (other than a workshop conducted by a school, college, or university) for a production for which direct or indirect adminssion charge is asked if the proceeds, after deducting reasonable costs, are used for purposes other than assisting the grantee to develop high standards of artistic excellence or encourage greater appreciation of the arts and humanities by our citizens.

SHORT TITLE

SECTION 1. This Act may be cited as the "Arts and Artifacts Indemnity Act."

(20 U.S.C. 971) Enacted Dec. 20, 1975, P.L. 94-158, sec. 1, 89 Stat. 844.

FEDERAL COUNCIL

SEC. 2. (a) The Federal Council on the Arts and Humanities (hereinafter in this Act referred to as the "Council"), established under section 9 of the National Foundation on the Arts and the Humanities Act of 1965, is authorized to make agreements to indemnity against loss or damage such items as may be eligible for such indemnity agreements under section 3—

(1) in accordance with the provisions of this Act; and

(2) on such terms and conditions as the Council shall prescribe, by regulation, in order to achieve the purposes of this Act and, consistent with such purposes, to protect the financial interest of the United States.

(b)*(1)* For purposes of this Act, the Council shall be an "agency" within the meaning of the appropriate definitions of such term in title 5, United States Code.

*(2) For purposes of this Act, the Secretary of the Smithsonian Institution, the Director of the National Gallery of Art, the member designated by the Chairman of the Senate Commission of Art and Antiquities and the member designated by the Speaker of the House of Representatives shall not serve as members of the Council.*

ELIGIBLE ITEMS

SEC. 3. (a) The Council may make an indemnity agreement under this Act with respect to—

(1) works of art, including tapestries, paintings, sculpture, folk art, graphics and craft arts;

(2) manuscripts, rare documents, books, and other printed or published materials;

(3) other artifacts or objects; and

(4) photographs, motion pictures, or audio and video tape;

which are (A) of educational, cultural, historical, or scientific value, and (B) the exhibition of which is certified by the Secretary of State or his designee as being in the national interest.

(b)(1) An indemnity agreement made under this Act shall cover eligible items while on exhibition in the United States, **[**or elsewhere when part of an exchange of exhibitions, but in no case shall

both parts of such an exchange be so covered.] *or elsewhere, preferably when part of an exchange of exhibitions.*

(2) For purposes of this subsection, the term "on exhibition" includes that period of time beginning on the date the eligible items leave the premises of the lender or place designated by the lender and ending on the date such items are returned to the premises of the lender or place designated by the lender.

APPLICATION

SEC. 4. (a) Any person, nonprofit agency, institution, or government desiring to make an indemnity agreement for eligible items under this Act shall make application therefor in accordance with such procedures, in such form, and in such manner as the Council shall, by regulation, prescribe.

(b) An application under subsection (a) shall—

(1) describe each item to be covered by the agreement (including an estimated value of such item);

(2) show evidence that the items are eligible under section 3(a); and

(3) set forth policies, procedures, techniques, and methods with respect to preparation for, and conduct of, exhibition of the items, and any transportation related to such items.

(c) Upon receipt of an application under this section, the Council shall, if such application conforms with the requirements of this Act, approve the application and make an indemnity agreement with the applicant. Upon such approval, the agreement shall constitute a contract between the Council and the applicant pledging the full faith and credit of the United States to pay any amount for which the Council becomes liable under such agreement. The Council, for such purpose, is hereby authorized to pledge the full faith and credit of the United States.

(20 U.S.C. 973) Enacted Dec. 20, 1975, P.L. 94-158, 89 Stat. 845.

INDEMNITY AGREEMENT

SEC. 5. (a) Upon receipt of an application meeting the requirements of subsections (a) and (b) of section 4, the Council shall review the estimated value of the items for which coverage by an indemnity agreement is sought. If the Council agrees with such estimated value, for the purposes of this Act, the Council shall, after approval of the application as provided in subsection (c) of section 4, make an indemnity agreement.

(b) The aggregate of loss or damage covered by indemnity agreements made under this Act shall not exceed **[**$400,000,000**]** *$650,000,000* at any one time.

(c) No indemnity agreement for a single exhibition shall cover loss or damage in excess of **[**$50,000,000**]** *$75,000,000.*

(d) If the estimated value of the items covered by an indemnity agreement for a single exhibition is—

(1) $2,000,000 or less, then coverage under this Act shall extend only to loss or damage in excess of the first $15,000 of loss or damage items covered;

(2) more than $2,000,000 but less than $10,000,000, then coverage under this Act shall extend only to loss or damage in

excess of the first $25,000 of loss or damage to items covered; or

(3) $10,000,000 or more, then coverage under this Act shall extend only to loss or damage in excess of the first $50,000 of loss or damage to items covered.

REGULATIONS

SEC. 6. (a) The Council shall prescribe regulations providing for prompt adjustment of valid claims for losses which are covered by an agreement made pursuant to section 5, including provision for arbitration of issues relating to the dollar value of damages involving less than total loss or destruction of such covered objects.

(b) In the case of a claim of loss with respect to an item which is covered by an agreement made pursuant to section 5, the Council shall certify the validity of the claim and the amount of the loss to the Speaker of the House of Representatives and the President pro tempore of the Senate.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There are hereby authorized to be appropriated such sums as may be necessary (1) to be enable the Council to carry out its functions under this Act, and (2) to pay claims certified pursuant to section 6(b).

(20 U.S.C. 976) Enacted Dec. 20, 1978, P.L. 94-158, sec. 7, 89 Stat. 846.

REPORT

SEC. 8. The Council shall report annually to the Congress (1) all claims actually paid pursuant to this Act during the preceding fiscal year, (2) pending claims against the Council under this Act as of the close of that fiscal year, and (3) the aggregate face value of contracts entered into by the Council which are outstanding at the close of that fiscal year.

(20 U.S.C. 977) Enacted Dec. 20, 1975, P.L. 94-158, sec. 8, 89 Stat. 846.

EFFECTIVE DATE

SEC. 9. This Act shall become effective 30 days after the date of the enactment of this Act.

(20 U.S.C. 971, note) Enacted Dec. 20, 1975, P.L. 94-158, sec. 9, 89 Stat. 846.

## TITLE II—MUSEUM SERVICES

SHORT TITLE

SEC. 201. This title may be cited as the "Museum Services Act".

(20 U.S.C. 961 note) Enacted October 8, 1976, P.L. 94-462, Title II, sec. 201, 90 Stat. 1975.

PURPOSE

SEC. 202. It is the purpose of this title to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and post-secondary education and with programs of nonformal education for all age groups; to assist

museums in modernizing their methods and facilities so that they may be better able to conserve our cultural, historic, and scientific heritage; and to ease the financial burden borne by museums as a result of their increasing use by the public.

(20 U.S.C. 961) Enacted October 8, 1976, P.L. 94-462, Title II, sec. 203, 90 Stat. 1975.

INSTITUTE OF MUSEUM SERVICES

SEC. 203. There is hereby established within the National Foundation on the Arts and the Humanities, an Institute of Museum Services. The Institute shall consist of a National Museum Services Board and a Director of the Institute.

(20 U.S.C. 962) Enacted October 8, 1976, P.L. 94-462, Title II, sec. 203, 90 Stat. 1975; amended Dec. 4, 1980, P.L. 96-496, sec. 201(a), 94 Stat. 2591; amended May 31, 1984, P.L. 98-306, sec. 8, 98 Stat. 225.

NATIONAL MUSEUM SERVICES BOARD

SEC. 204. (a)(1) The Board shall consist of fifteen members appointed by the President by and with the advice and consent of the Senate. Such members shall be broadly representative of various museums, including museums relating to science, history, technology, art, zoos, and botanical gardens, of the curatorial, educational, and cultural resources of the United States, and of the general public.

DIRECTOR OF THE INSTITUTE

SEC. 205. (a)(1) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. The Director shall be compensated at the rate provided for level V of the Executive Schedule (5 U.S.C. 5316), and shall perform such duties and exercise such powers as the Board may prescribe.

(2) The Director shall not delegate any of his functions to any other officer who is not directly responsible to the Director.

(b) The Director shall advise the Board regarding policies of the Institute to assure coordination of the Institute's activities with other agencies and organizations of the Federal Government having interest in and responsibilities for the improvement of museums. Such Government agencies shall include the National Endowment for the Arts, the National Endowment for the Humanities, the National Science Foundation, appropriate units in the Department of Education, the Library of Congress, and the Smithsonian Institution and related organizations.

(c) The Director may appoint without regard to the provisions of title 5, United States Code, governing appointment in the competitive service and may compensate without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates not to exceed one-fifth of the number of full-time regular technical or professional employees of the Institute. The rate of basic compensation for such employees may not equal or exceed the rate prescribed for GS-16 of the General Schedule under section 5332 of title 5, United States Code.

ACTIVITIES OF THE INSTITUTE

SEC. 206. (a) The Director, subject to the policy direction of the Board, is authorized to make grants to museums to increase and improve museum services, through such activities as—

(1) programs to enable museums to construct or install displays, interpretations, and exhibitions in order to improve their services to the public;

(2) assisting them in developing and maintaining professionally trained or otherwise experienced staff to meet their needs;

(3) assisting them to meet their administrative costs in preserving and maintaining their collections, exhibiting them to the public, and providing educational programs to the public through the use of their collections;

(4) assisting museums in cooperation with each other in the development of traveling exhibitions, meeting transportation costs, and identifying and locating collections available for loan;

(5) assisting them in conservation of artifacts and art objects; and

(6) developing and carrying out specialized programs for specific segments of the public, such as programs for urban neighborhoods, rural areas, Indian reservations, and penal and other State institutions.

(b)(1) The Director, subject to the policy direction of the National Museum Services Board, is authorized to enter into contracts and cooperative agreements with professional museum organizations to provide financial assistance to such organizations in order to enable such organizations to undertake projects designed to strengthen museum services, except that any contracts or cooperative agreements entered into pursuant to this subsection shall be effective only to such extent or in such amounts as are provided in appropriations Acts.

(2)(A) No financial assistance may be provided under this subsection for any project for a period in excess of one year.

(B) No financial assistance may be provided under this subsection to pay for the operational expenses of any professional museum organization.

(3) The aggregate amount of financial assistance made under this subsection to professional museum organizations shall not exceed 5 percent of the amount appropriated under this Act for such fiscal year.

(4) For purposes of this subsection, the term "professional museum organization" means a private, nonprofit professional museum-related organization, institution, or association which engages in activities designed to advance the well-being of museums and the museum profession.

(c) Grants, contracts, and cooperative agreements under this section for any fiscal year may not exceed 50 per centum of the cost of the program for which the grant or financial assistance is made, except that not more than 20 per centum of the funds available under this section for any fiscal year may be available for grants or financial assistance in such fiscal year without regard to such limitation.

(d) The Director shall establish procedures for reviewing and evaluating grants, contracts, and cooperative agreements made or entered into under this section. Procedures for reviewing grant applications or contracts and cooperative agreements for financial assistance under this section shall not be subject to any review outside of the Institute.

(20 U.S.C. 965) Enacted Oct. 8, 1976, Title II, sec. 206, 90 Stat. 1977; amended Dec. 4, 1980, P.L. 96-496, sec. 201(d), 94 Stat. 2592.

(2)(A) In addition to members appointed by the President under paragraph (1), the following persons shall serve as members of the Board—

(i) the Chairman of the National Endowment for the Arts;

(ii) the Chairman of the National Endowment for the Humanities;

**(iii) the Secretary of the Smithsonian Institution; and**

(iv) the Director of the National Science Foundation.

(B) The members of the Board listed in clause (i) through clause (iv) of subparagraph (A) shall be novoting members.

(b) The term of office of the appointed members of the Board shall be five years, except that—

(1) any such member appointed to fill a vacancy shall serve only such portion of a term as shall not have expired at the time of such appointment; and

(2) in the case of initial members, three shall serve for terms of five years, three shall serve for terms of four years, three shall serve for terms of three years, three shall serve for terms of two years, and three shall serve for terms of one year, as designated by the President at the time of nomination for appointment.

Any appointed member who has been a member of the Board for more than seven consecutive years shall thereafter be ineligible for reappointment to the Board during the three-year period following the expiration of the last such consecutive year. Notwithstanding any other provision of this subsection, a member shall serve after the expiration of his term of office until his successor takes office.

(c) The Chairman of the Board shall be designated by the President from among the appointed members of the Board. Except as provided in subsection (d)(2), eight appointed members of the Board shall constitute a quorum.

(d) The Board shall meet at the call of the Chairman, except that—

(1) it shall meet not less than four times each year; and

(2) it shall meet whenever one-third of the appointed members request a meeting in writing, in which event seven of the appointed members shall constitute a quorum.

(e) Members of the Board who are not in the regular full-time employ of the United States shall receive, while engaged in the business of the Board, compensation service at a rate to be fixed by the President, except that such rate shall not exceed the rate specified at the time of such service for grade GS-18 set forth in section 5332 of title 5, United States Code, including traveltime, and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of

subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed in Government service.

(f) The Board shall have the responsibility for the general policies with respect to the powers, duties, and authorities vested in the Institute under this title. The Director shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

(g) The Board shall, with the advice of the Director, take steps to assure that the policies and purposes of the Institute are coordinated with other activities of the Federal Government.

CONTRIBUTIONS

SEC. 207. The Institute shall have authority to accept in the name of the United States, grants, gifts, or bequests of money for immediate disbursement in furtherance of the functions of the Institute. Such grants, gifts, or bequests, after acceptance by the Institute, shall be paid by the donor or his representative to the Treasurer of the United States whose receipt shall be their acquittance. **The Treasurer of the United States shall enter them in a special** account to the credit of the Institute for the purposes in each case specified.

(20 U.S.C. 966) Enacted Oct. 8, 1976, Title II, sec. 207, 90 Stat. 1977.

FUNCTIONS OF FEDERAL COUNCIL ON THE ARTS AND THE HUMANITIES

SEC. 208. [Contained amendments to section 9(c) of the National Foundation on the Arts and Humanities Act of 1965.]

AUTHORIZATION OF APPROPRIATIONS

SEC. 209. [(a) For the purpose of making grants under section 206(a), there are authorized to be appropriated $25,000,000 for fiscal year 1981, $30,000,000 for fiscal year 1982, $35,000,000 for fiscal year 1983, $20,150,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985.] *(a) For the purpose of making grants under section 206(a), there are authorized to be appropriated $21,600,000 for fiscal year 1986, $22,464,000 for fiscal year 1987, $23,362,560 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.*

**(b) There are authorized to be appropriated such sums as may be necessary to administer the provisions of this title.**

(c) Sums appropriated pursuant to subsection (a) for any fiscal year shall remain available for obligation and expenditure until expended.

(d) For the purpose of enabling the Institute to carry out its functions under this title, during the period beginning on the date of the enactment of this Act and ending October 1, 1985, there is authorized to be appropriated an amount equal to the amount contributed during such period to the Institute under section 207.

DEFINITIONS

SEC. 210. For the purpose of this title, the term—

(1) "Board" means the National Museum services Board established under section 203;

(2) "Director" means the Director of the Institute established under section 203;

(3) "Institute" means the Institute of Museum services established under section 203; and

(4) "Museum" means a public or private nonprofit agency or institution organzied on a permanent basis for essentially educational or esthetic purposes, which utilizing as professional staff, owns or utilizes tangible objects, cares for them, and exhibits them to the public on a regular basis.

(20 U.S.C. 9687) Enacted Oct. 8, 1976, P.L. 894-462, Title II, sec. 210, 90 Stat 1978.

*STUDY OF ALTERNATIVE FEDERAL FUNDING OF THE ARTS AND THE HUMANITIES*

*SEC. 11. (a) STUDY REQUIRED.—(1) The Comptroller General of the United States shall conduct a study to determine the feasibility of supplementing expenditures made from the general fund of the Treasury of the United States for the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Musem Services through other Federal funding mechanisms. The study required by this section shall consider, but is not limited to, the consideration of the following funding sources:*

*(A) A revolving fund comprised of payments made to the Federal Government through an extension of the existing Federal copyright period of artistic, dramatic, literary, and musical works.*

*(B) A revolving fund comprised of payments made to the Federal Government for the right to use or publicly perform artistic, dramatic literary, and musical works in the public domain.*

*(2) In carrying out the study required by this section, the Comptroller General shall frequently consult with and seek the advice of the Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, the Director of the Institute of Museum Services, the Register of Copyrights, the Chairman of the Labor and Human Resources Committee of the Senate, and the Chairman of the Education and Labor Committee of the House of Representatives, concerning the scope, direction, and focus of the study.*

*(3) In conducting the study required by this section, the Comptroller General shall consider the impact which the implementation of each supplemental funding mechanism would have on—*

*(A) any international copyright treaties, commitments, and obligations to which the United States is a party;*

*(B) public participation in the arts and the humanities;*

*(C) private, corporate, and foundation support for the arts and the humanities;*

*(D) the overall quality of arts and the humanities in the United States;*

*(E) the creative activities of individual authors and artists; and*

*(F) the activities and operations of private copyrighting organizations.*

*(b) REPORT.—The Comptroller General shall prepare and submit to the Congress not later than one year after the date of enactment*

*of this Act a report of the study required by this section, together with such recommendations as the Comptroller General deems appropriate.*

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